

17 September 1971

Mr. John Hurley, Assistant Chief
International Programs Division
Office of Management and Budget
Washington, D. C. 20503

Dear John:

Per our discussion today, we have looked carefully
at the draft of the proposed Executive Order entitled
"Prescribing Regulations for the Formation, Management,
Use and Termination of Committees in Government"
dated 27 August 1971 and have no problems with it.

Would you please pass our concurrence on to your
General Counsel, Mr. Focke.

Sincerely,

(signed) John M. Clarke

John M. Clarke
Director of Planning,
Programming, and Budgeting

STATINTL

O/PPB/ [REDACTED] /mru;24Sep71
Distribution:

Orig & 1 - addressee

(1) PPB subject (MICS)

PPB 71-1396

not sent

MEMORANDUM FOR: Executive Director-Comptroller

SUBJECT : Draft Executive Order, dated 27 Aug 1971,
"Prescribing Regulations for the Formation,
Management, Use and Termination of
Committees in Government"

1. The attached letter to OMB is a response to their request for comments on the attached drafts of an Executive Order on committees in government and a related OMB Circular. These drafts represent both an updating and a consolidation of two previous documents, Executive Order 11007 on advisory committees and BOB Circular A-63 on interagency committees.
2. When issued, the Executive Order under section 12 will require the following steps by agencies and departments:
 - a. Designation of a Committee Management Officer.
 - b. Establishment of a committee management system to review and evaluate the committee activities.
 - c. Issuance of additional directives and guidance as needed.
3. The drafts of the Order and Circular were reviewed within O/PPB, by Bruce Lowe of the USIB Secretariat, and by Richard Lansdale of the Office of General Counsel.
4. No problems can be identified within the drafts other than the fact that they require a more rigorous approach to the existence of committees. In sum, they represent a strong effort to systematize the management of committees and to limit their proliferation.

5. As before, I believe that OMB is primarily concerned with those committees which receive and use financial support from one or more agencies. Furthermore, while we must report minimal information on USIB committees, the requirements for detailed reporting do not apply to such committees; they, in turn, are governed by their own Executive Order.

6. Currently the Agency does chair a dozen interagency committees which would be covered by the detailed reporting requirements of the proposed documents. Inasmuch as more than one Directorate is involved in these committees and because this involves contact with OMB, I recommend that the Committee Management Officer called for in the Executive Order be named from O/PPB. His responsibilities would consist primarily of developing guidelines and ensuring compliance with reporting requirements. Responsibility for review and evaluation of the functioning of interagency committees would be delegated mainly to the appropriate Directorates.

John M. Clarke
Director of Planning,
Programming, and Budgeting

Orig - ExDir(PPB/MICS)

1 - PPB Reading

1 - P&R Chrono

(1) - Hold STATINTL

O/PPB/P&R/ [redacted] t/hg 17 Sep 71



CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OFFICE OF THE DIRECTOR

not sent

Mr. Arthur B. Focke
General Counsel
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Focke:

The Central Intelligence Agency has reviewed and concurs in the draft of the proposed Executive Order, dated 27 August 1971, entitled "Prescribing Regulations for the Formation, Management, Use and Termination of Committees in Government" and the related Circular.

It is noted that the United States Intelligence Board, being a Presidential committee established under Executive Order 11460, would follow the provisions of that Executive Order.

It is also noted that CIA-chaired committees covered under the provisions of the proposed Executive Order would be expected to be treated in accordance with section 10 which excludes listing information which may compromise national security. In view of these security considerations, I intend to continue reporting to OMB through the International Programs Division.

Sincerely,

L. K. White
Executive Director-Comptroller

EXECUTIVE OFFICE OF THE PRESIDENT
Approved For Release 2001/12/12 : CIA-RDP73B00296R000400150034-5
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

PPB - 71-13-96

September 1, 1971

In accordance with the provisions of Executive Order No. 11030, as amended, there is enclosed a proposed Executive order entitled "Prescribing Regulations for the Formation, Management, Use, and Termination of Committees in Government."

There is also enclosed an Office of Management and Budget draft circular related to the proposed order.

The Director of the Office of Management and Budget would appreciate receiving an expression of your views with respect to these matters no later than September 17, 1971.

Sincerely,



General Counsel

Enclosures

8/27/71
PPB 71-1396

DRAFT EXECUTIVE ORDER

Prescribing Regulations for the Formation, Management,
Use and Termination of Committees in Government

Committees are a source of advice to the President and to the departments and agencies and are a useful means of coordination of government programs. To assure the proper and effective functioning of committees and to keep their number and duration at the minimum necessary, standards for their formation, use, conduct, oversight and accessibility to the public are required.

Therefore, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States, it is hereby ordered as follows:

Section 1. As used herein,

- (a) The term "department or agency" means any department, agency, establishment, or instrumentality of the Executive Branch of the Government, including any wholly-owned Government corporation, except the municipal government of the District of Columbia.
- (b) The term "Government official" means any full-time salaried officer or employee of the Government.
- (c) The term "Director" means the Director of the Office of Management and Budget.
- (d) The term "committee" means any committee, board, commission, council, conference, panel, task force, or other similar group or body formed to meet on a recurring basis to provide advice

or recommendations to the Government, or for the purpose of coordinating the activities of departments or agencies.

(e) The term "Presidential committee" means any committee having members appointed by the President and which is used as a source of direct advice and counsel to the President or the Vice President.

(f) The term "interagency committee" means any committee sponsored or utilized by a department or agency whose membership consists exclusively of Government officials, as defined herein, representing more than one department or agency and which has been or will be in existence for six or more months during any consecutive twelve months.

(g) The term "advisory committee" means a committee utilized by a department or agency which includes one or more members who is not a Government official.

Section 2. No interagency or advisory committee shall be formed or utilized by any department or agency unless establishment is:

(a) Specifically authorized by statute or Presidential directive or

(b) Specifically determined as a matter of formal record by the head of the department or agency to be in the public interest in connection with the performance of duties imposed on that department or agency by law.

Section 3. No committee shall meet or take any action until after a committee charter has been filed with the head of the department or agency sponsoring or utilizing the committee. Such charter shall contain at least the following data:

- (1) the committee's official designation;
- (2) the committee's limits, objectives, and scope of activity;
- (3) the period of time necessary for the committee to achieve its

public interest. A like determination by the establishing authority shall be necessary not more than 60 days before the end of each subsequent two-year period to continue the existence of such committee thereafter. For the purpose of this section, the date of formation of a committee in existence on the date of publication of this Order shall be deemed to be January 1, 1970, or the actual date of its formation whichever is later.

Section 6. The department or agency chairing an interagency or advisory committee shall be responsible for providing support services for the committee's activities unless the establishing authority states otherwise. Where more than one department or agency chairs a committee, only one of those departments or agencies shall be responsible for support services at any one time.

Section 7. In order to enhance interagency or advisory committee accountability and responsibility, such committees are permitted to have dual or rotating chairmanships only when the heads of the departments or agencies sponsoring or utilizing the committee determine that such arrangement is required in the public interest.

Section 8. Committees may not be financed by contributions from member agencies under the authority of the Independent Offices Appropriations Act of 1946 (31 U.S.C. 691) unless specific congressional approval is received for such method of financial support.

Section 9. All persons acting as consultants or advisers to interagency committees, not later than thirty days after the beginning of their committee service, shall execute under oath a statement containing a complete listing of all their financial interests which a reasonable and prudent man would consider likely to be tangibly affected by department or agency decisions relevant to the committee's area of responsibility,

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or a statement which denies the ownership or possession of any such interests. Whenever there is a material change in the financial interests of any person who had previously executed a statement of the kind required by this subsection, not later than thirty days after the occurrence of such change, he shall execute under oath an appropriate supplementary statement. All such statements shall be made available to the public for inspection and copying upon request.

Section 10. The Director shall:

- (a) establish and maintain oversight of the administrative activities of Presidential committees;
- (b) issue directives and provide guidance to departments and agencies concerning the management and oversight of interagency and advisory committees consistent with the purposes and provisions of this Order;
- (c) from time to time request such information he deems necessary to assure proper utilization of committees;
- (d) on or before Jan. 15 of each year, provide to Congress and publish in the Federal Register, a list of Presidential, interagency, and advisory committees chaired, sponsored or used by the Executive Branch during the preceding fiscal year, or upon which any department or agency's full-time officers or employees had served during the previous calendar year. Such a list shall contain (1) the name of each committee and the agency to which it reports, (ii) the name and address of the chairman and each member and the agency, organization or group each represents, and (iii) an indication that the committee was established, continued or terminated during the reporting year.

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The Director shall exclude from this listing information which, in his judgment, may compromise the national security.

Section 11. With the policy guidance of the Office of Management and Budget, the General Services Administration shall provide, as may be required by statute or, when requested, the appropriate support services necessary for the adequate functioning of Presidential committees.

Section 12. The head of every department or agency chairing a committee shall:

(a) issue additional directives and provide guidance regarding the management of the department's or agency's interagency or advisory committees consistent with those promulgated by the Director and the provisions and purposes of this Order;

(b) designate a Committee Management Officer in the office of the head of the department or agency to exercise effective control over the establishment and use of interagency and advisory committees.

(c) establish a committee management system, under the supervision of the Committee Management Officer, which will provide systematic and effective review and evaluation of the activities and accomplishments of interagency and advisory committees.

Section 13. Advisory committees shall:

(a) hold meetings under the chairmanship of, or conducted in the presence of, a Government official who shall have the authority and be required to adjourn any meetings whenever he considers adjournment to be in the public interest;

(b) designate a Government official who shall be responsible for assembling the committee's records, retaining custody of them, and responding to requests for public information in accordance with the provisions of 5 U.S.C. § 552 (Freedom of Information Act) and guidelines issued by the Attorney General.

(c) have members that provide effective representation of the public, when appropriate.

Section 14. Advisory committees shall not:

(a) receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises;

(b) hold any meetings except at the call of, or with the advance approval of, a Government official and with an agenda approved by such official.

Section 15. In order to provide for public knowledge of and accessibility to advisory committees:

(a) unless otherwise provided by statute or Presidential directive, adequate provisions shall be made to apprise any interested individual or group of the purposes, membership and activities of such committees including:

- dates and places of meetings
- agenda of meetings
- records of proceedings

(b) any interested person may attend meetings of advisory committees. However, committees may establish reasonable limitations as to numbers of persons and provision of facilities;

(c) provision shall be made for sufficient opportunity for interested persons to submit views on the subject matter under discussion by the committee;

(d) records shall be kept of all proceedings of the committee for a period of one year. Such records shall include:

(1) the identification of those present at meetings and the interests or affiliations they represent,

(2) the information made available for consideration by the committee,

(3) a full description of the discussions held;

(4) the basis on which decisions or recommendations were made;

(5) decisions or recommendations made.

(e) advice or recommendations of the committee shall be given only with respect to matters covered in the record of the committee's proceedings;

(f) the provisions of this section shall apply to all advisory committees except when such committees are concerned with:

(1) national security, intelligence matters, or international policy;

(2) matters affecting financial or commodity markets or which would disclose trade secrets, or confer undue competitive advantage;

(3) information that if prematurely released would be detrimental to the public health or safety;

(4) information concerning the competence or character of an individual, or information that would constitute an invasion of his privacy or destroy his livelihood.

Where the above exceptions are made, sufficient records shall be kept so that the basis for the committee's conclusions and recommendations can be determined at such time as the record of proceedings is made public. Further, the record of proceedings shall include the basis on which the exception was invoked.

Section 16. The requirements of this Order shall not apply to:

(a) any committee wholly composed of State or local agencies or charitable, religious, educational, civic, social welfare, or other similar nonprofit organizations, unless such committee is utilized in the same manner as a Government formed committee;

(b) any local, regional, or national committee whose sole function is the dissemination of information for public agencies, or to any local civic committee whose primary function is that of rendering a public service other than giving advice or making recommendations to the Government;

(c) any committee for which a statute or Presidential directive specifically provides that such committee shall be subject to provisions which are different from the provisions of this Order with respect to limitations, purposes, or standards of conduct or disclosure.

Section 17. This Order supersedes Executive Order No. 11007, as well as all provisions of prior Executive Orders to the extent that they are in conflict with the provisions of this Order.

DRAFT

8/27/71

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

Subject: Management of Interagency and Advisory Committees

1. Purpose. This Circular sets forth procedures and instructions for forming, managing, using and terminating interagency and advisory committees.

2. Rescission. This Circular supercedes Circular No. A-63, "Management of Interagency Committees," dated March 2, 1964.

3. Background. This Circular implements policies established by Executive Order _____, Prescribing Regulations for the Formation, Management, Use and Termination of Committees in Government.

4. Definitions. For the purposes of this Circular, the terms listed below have the following meanings:

a. "Department or agency" means any department, agency, establishment, or instrumentality of the Executive Branch of the Government, including any wholly-owned government corporation, except the municipal government of the District of Columbia.

b. "Government official" means any full-time salaried officer or employee of the Government.

c. "Committee" means any committee, board, commission,

council, conference, panel, task force, or other similar group or body formed to meet on a recurring basis to provide advice or recommendations to the government or to coordinate the activities of departments or agencies.

d. "Interagency committee" means any committee chaired sponsored or utilized by a department or agency whose membership consists exclusively of Government officials, as defined herein, representing more than one department or agency and which has been or will be in existence for six or more months during any consecutive twelve months.

e. "Advisory committee" means a committee utilized by a department or agency which includes one or more members who is not a Government official.

5. Committees included: All interagency and advisory committees used, chaired, or sponsored by any department or agency of the Executive branch of Government are governed by the provisions of this Circular.

6. Committees not included: The requirements of this Circular do not apply to:

a. Presidential committees, i.e., those committees having members appointed by the President and which are utilized as a source of direct advice and counsel to the President or Vice President.

b. Any committee composed wholly of representatives from State or local agencies or charitable, religious, educational, civic, social welfare, or other similar nonprofit organizations.

c. Any local, regional, or national committee whose sole function is the dissemination of information for public agencies, or to any local civic committee whose primary function is that of rendering a public service other than giving advice, making recommendations to, or coordinating programs of the government.

d. Any committee which by statute or Presidential directive is governed by provisions which differ from those outlined in this Circular.

7. Responsibilities: Departments or agencies shall:

a. Issue directives to carry out the policies and procedures prescribed in Executive Order _____ and this Circular. An initial directive should be promulgated within 60 days after the effective date of this Circular. A copy of the directive and any later supplements to it shall be submitted to OMB at the time of issuance.

b. Establish and maintain a system to:

(1) Provide administrative management of the activities of committees chaired or sponsored by the

department or agency.

(2) Review the activities of each committee at least every two years. Review should include recommendations for continuation or termination.

(3) Provide information necessary to comply with the requirements of this Circular.

(4) Insure the provisions of the Freedom of Information Act are complied with.

c. Appoint an agency committee management officer, who shall act as the contact with OMB for compliance with this Circular. This Committee Management Officer shall be at such level and proximity to the agency head as to permit effective control of the agency's committee management system. This Committee Management Officer should be designated to OMB (by name and telephone number) within 30 days after the effective date of this Circular.

d. Propose the creation of committees by legislation or Presidential action only when the need is compelling, and with the prior approval of OMB.

e. For interagency committees created by legislation or Presidential directive, submit recommendations

for continuance or termination to OMB for approval at least 90 days before the recommended effective date.

Such recommendations must include:

- (1) the reason for continuance or termination.
- (2) a summary report of the committee's progress.

8. The Office of Management and Budget shall:

- a. Provide guidance for agency committee management systems, practices, and procedures, and review of those systems.
- b. Review agency recommendations to continue or terminate interagency committees created by statute or Presidential directive.
- c. Maintain a listing of all interagency committees and advisory committees used, chaired, or sponsored by any department or agency of the Executive branch of Government.
- d. Encourage agencies to make productive use of committees or to terminate them.
- e. Provide to Congress and publish in the Federal Register, no later than January 15 of each year, a list of interagency and advisory committees chaired, sponsored

or utilized by a department or agency during the preceding fiscal year, or upon which any department's or agency's full-time officers or employees had served during the previous fiscal year. Such a list shall contain:

(1) The name of each committee and the agency to which it reports.

(2) The name and address of the chairman and every member and the agency, organization, or group each represents.

(3) An indication that the committee was established, continued, or terminated during the reporting year.

9. Membership

a. Interagency committees. (1) Membership on interagency committees shall be limited to representatives of agencies having a substantial interest in the subjects under review. Chairmen may invite other participants when matters specifically concerning their areas of interest are considered. As a general rule, principal members should attend committee meetings. Extensive use of alternate members indicates that a committee has been established at too high an organizational level or is no longer necessary.

(2) Consultants or advisors may be assigned to interagency committees in accordance with the agency's existing authority. When such consultants or advisors are utilized by committees, a statement relating to their financial or other interests will be required in accordance with Section 9 of Executive Order _____.

b. Advisory committees. Membership of an advisory committee shall be as representative as practicable of the various segments of the general public having an interest in the subject matter under consideration. When broad representation is inappropriate, the head of the agency shall include in the initial record made of a committee's proceedings the extent to which limitations have been placed on membership and the reasons for such limitations.

10. Conduct of Advisory committee meetings.

a. Notification of meetings

(1) As soon as possible after an advisory committee has been formed, public notice shall be given. Such notice shall include the name of the committee, the subject matter to be considered, the place and time of the first meeting, and the name of a person to contact

for further information.

(2) Such notice shall be made through a medium that would adequately inform the general public in the geographic area affected or the geographic area where the first and subsequent meetings will be held.

(3) Additional and identical notice shall be published in the Federal Register if it is not the medium selected in (2) above.

(4) Notice of subsequent meetings shall be made through the same procedures as described in (2) and (3) or through direct notification to those indicating interest in the continuing activities of the committee.

(5) Notices of meetings subsequent to the initial meeting shall be made whenever possible at least one week before a meeting is held and shall include an agenda of matters expected to be discussed at the meeting.

b. Public access

(1) Unless excepted by Section 15(f) of Executive Order _____, any person expressing an interest in attending meetings of an advisory committee shall be given the opportunity to do so, subject to the limitations

of location and space. If such limitations are a factor, interested persons shall be made aware of them and what requirements must be met to assure attendance. The location and size of meeting room are not sufficient reasons to exclude all interested persons from attending committee meetings.

(2) On certain occasions executive committee sessions may be necessary. Should an executive session be planned, the agenda for it shall be prepared at a public meeting prior to the executive session. Further, public notice shall be made of the intent to hold an executive session, the agenda for that session, and the reasons for the exclusion of the public. In the event there is not enough time to give public notice, a post-meeting notice shall be made within 72 hours. This notice shall include the time and place of the meeting, the reason for the executive session and lack of pre-meeting notification, and the agenda discussed. When an executive session is held, the committee shall not reach conclusions nor make recommendations without giving the public an opportunity to review the record of the matters discussed at the executive session, and to make its views known.

(3) Executive sessions shall not number more than half the meetings held by an advisory committee.

c. Public participation

(1) A committee may allow any member of the public to participate in its discussions to the extent the committee chairman deems appropriate.

(2) Interested persons shall be allowed to present their views on matters being considered by the committee. The committee shall consider in its deliberations all pertinent information provided by interested persons before presenting its recommendations.

(3) Persons submitting unsolicited information to a committee shall be required to identify themselves and to identify any organization they may represent.

d. Record of proceedings

(1) A complete record shall be made of all committee proceedings including a list of those present and their affiliations, the essence of all dis-

cussions, information received and considered, and any conclusions reached or recommendations made.

(2) Participants shall be given the opportunity to review records and make any corrections before such records are certified as official documents of the committee. The committee chairman shall certify the committee records following his final review.

(3) Copies of committee records of proceedings and any other information considered by the committee shall be made available upon request to the committee, in accordance with the provisions of the Freedom of Information Act, the guidelines provided by the Attorney General, and appropriate agency interpretation of those guidelines.

11. Reports. On or before August 30 of each year, every department or agency shall submit to OMB a complete report on all committees it has chaired, sponsored or utilized during the prior fiscal year. The format and content of this report are shown in Attachments B and C of this Circular.

12. Attachments

a. Attachment A. Executive Order _____, Prescribing Regulations for the Formation, Management, Use and

Termination of Committees in Government.

b. Attachment B. Guidelines for preparing the Annual Committee Inventory Report.

c. Attachment C. Format for the Annual Committee Inventory Report.

13. Effective Date. This Circular becomes effective immediately.

14. Inquiries. For information concerning this Circular, call the Office of Management and Budget, William Hawley, 395-5156 or Code 103-5156.

Attachment B
Circular No. A-63
Revised

GUIDELINES FOR PREPARING
THE ANNUAL COMMITTEE INVENTORY REPORT

1. Committees to be reported.

a. Interagency and advisory committees. All interagency and advisory committees as defined in Sections 1(f) and 1(g), respectively, of Executive Order _____. A committee is to be reported either as an interagency or advisory committee, not both.

b. Subcommittees. Subcommittees which have a membership that is not made up exclusively of members of the parent committee are to be considered as separate committees for reporting purposes. Reporting requirements also apply to "working-level" or subordinate interagency committees which report to the parent committee.

2. Committees with limited reporting requirements

Short-term advisory committees. An advisory committee which completes its business within 60 days of its formation and which issues its report within 6 months of its

formation is required to report only its purpose, membership, and duration.

3. Committees not to be reported

a. Subcommittees. Subcommittees which are composed entirely of members of the parent committee shall not be reported.

b. Presidential committees. Committees that report directly to the President or Vice President shall not be reported, even when an agency chairs or directs such a committee.

4. Information required

a. Committee title*

b. Specific establishing authority, including authorization for transfer of funds from member agencies when required. Appropriate citations should also be included.*

(1) legislation

(2) Presidential directive

(3) department or agency head

(4) transfer of funds authority

- c. Date established*
- d. Date of first meeting (if held during reporting year)
- e. Designation indicating if the committee is inter-agency or advisory*
- f. Names of members and the departments or agency or interests each represents*
- g. Date of termination*
- h. Date recommendation is due for continuation (for committees established)
- i. Indication of the use of a dual or rotating chairmanship
 - (1) chairmanship transferred to/from
 - (2) date of chairmanship transfer
- j. Identification of functions other than providing advice or coordination*
- k. Indication if a formal public report has or is to be established*
- l. Date the last committee review was held
- m. Resources required
 - (1) man/years

(2) dollars expended

n. Status as of the end of the reporting year

* Short-term advisory committee (paragraph 2) reporting requirement.



CENTRAL INTELLIGENCE AGENCY
Office of Legislative Counsel
Washington, D. C. 20505
Telephone: 351-6121 (Code 143-6121)

TO: Mr. Ray A. McRae
Subcommittee on Intergovernmental Relations
Washington, D. C. 20510

Attached is for Winslow Turner, per
our conversation. Thanks for your help.

STATINTL

[REDACTED]
Assistant Legislative Counsel

attachment

FORM 1533 OBSOLETE
6-68 PREVIOUS
EDITIONS

(40)